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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|----------------------|------------------|
| 09/994,483 | 11/26/2001 | Michael A. Eidson | 10559-515001/ P12419 | 7245 |
| 20985 | 7590 | 10/25/2005 | EXAMINER | |
| FISH & RICHARDSON, PC 12390 EL CAMINO REAL SAN DIEGO, CA 92130-2081 | | | RIZZUTO, KEVIN P | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2183 | |

DATE MAILED: 10/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/994,483

Applicant(s)

EIDSON ET AL.

Examiner

Kevin P. Rizzuto

Art Unit

2183

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 12 October 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-42.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because:
the arguments are not found persuasive. Applicant argues,

"Namely, the rejection asserts that a processor within a multiprocessor system is 'an auxiliary device ... that works in conjunction with a computer'. Such an assertion neglects the fact that multiprocessor systems are unitary systems, i.e., the individual processors are fully integrated into a single multiprocessor 'computer.' Fowler and Wen are illustrative of this point. Their individual processors are fully integrated into multiprocessor systems. Indeed, both Wen and Fowler indicate that successful computation is performed only in the absence of a fault in any one of the individual integrated processors. *The individual processors thus are not 'auxiliary,' nor do they work 'in conjunction with' a computer. Rather, the individual processors are integrated with constituents of the multiprocessor computers.*"

"Since both Wen and Fowler describe that the individual processors in their multiprocessor system are jointly and integrally involved in the performance of a single set of computations, Applicant submits that the individual processors are part of Fowler's and Wen's multiprocessor 'computers.' Indeed, both Wen and Fowler indicate that successful computation is performed only in the absence of a fault in any one of the individual integrated processors. *As such, the remaining processors are not, by themselves, 'computers' that are capable of meaningful computation. The individual processors thus are not 'auxiliary,' nor do they work 'in conjunction with' a computer.*"

Applicant's attention is directed to the definitions of auxiliary and peripheral previously set forth.

Peripheral: "an auxiliary device, such as a printer, modem or storage system, that works in conjunction with a computer."

Auxiliary: "giving assistance or support; helping."

Applicant's attention is further directed to the definitions of conjunction and computer.

Conjunction: "1.b. The state of being joined." (American Heritage College Dictionary, Fourth Edition.)

Computer: “A device that computes, esp. a programmable electronic machine that performs high-speed operations or assembles, stores, correlates, or otherwise processes information.” (American Heritage College Dictionary, Fourth Edition.)

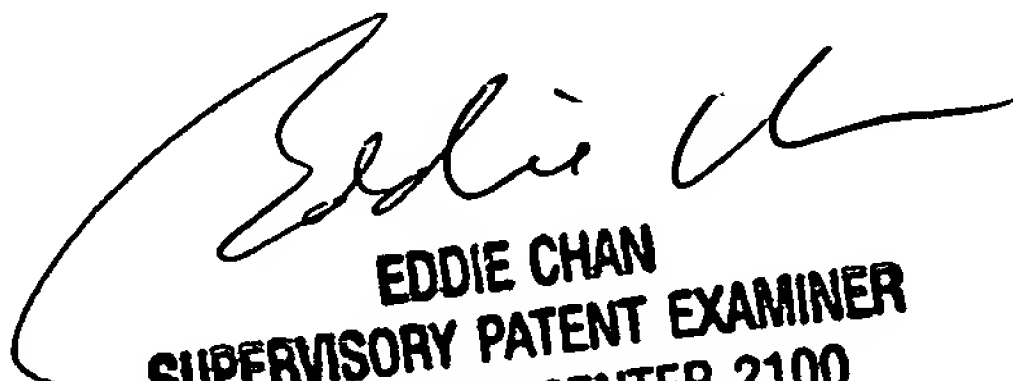
Applicant is arguing that the individual processors are not “computers” capable of meaningful computation. However, an individual processor in a multiprocessor system is “a device that computes,” since instructions are executed on them, and the instructions have computed results. Clearly, by the definition provided above, and general understanding in the art, a processor, including the individual processors of Wen and Fowler that are present in the multiprocessors systems, are “computers.”

Applicant alleges that the individual processors by themselves “are not capable of meaningful computation.” Examiner first notes that the definition of peripheral does not require a computer that is “capable of meaningful computation,” nor has there been a specific definition of “meaningful computation” provided. As shown above, a computer is defined as, “a device that computes,” and also does not include the relative term, “meaningful.”

However, the instructions that are executed on individual processors produce results, which are meaningful computations assuming Applicant’s allegations that the overall application/program cannot successfully complete unless each individual processor executes their portion absent any faults were true. This would show that each individual processor produces meaningful results that are necessary to complete an overall application.

Applicant states that the processor of Fowler only has successful computation “in the absence of a fault of the individual integrate processors,” and implies, but doesn’t specifically state, this as a definition for “meaningful computation.” Fowler teaches that a fault can be cascaded from one processor to the others, but not necessarily. Fowler also teaches wherein if a fault is cascaded, a recovery scheme can be implemented, which would then fix the fault and the multiprocessor system would produce “meaningful results,” which would still be a product of the individual processors “meaningful results.” (Col. 1, lines 39-57). Therefore, from the point of view that the multiprocessor system does not require each individual processor to execute absent faults, the individual processors still produce “meaningful results.”

As Applicant has stated in the above arguments, “individual processors in their multiprocessor system are jointly and integrally involved in the performance of a single set of computations.” As seen by the definition of conjunction, if the processors are “jointly” processing a set of computations, they are processing a set of computations in conjunction with each other. Therefore, the processor is being assisted by the peripherals (other processors) and the peripherals (other processors) are in conjunction with the processor, because they are “jointly and integrally involved in the performance of a single set of computations.”


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